

REMARKS

Claims 32 and 48-53 are pending. Claim 32 has been amended. No new matter has been presented. Also, while providing more clarity to the claimed invention, the amendment does not require any further search and consideration.

Initially, Applicants thank the Examiner for the courtesy of the phone interview of October 2, 2008. As the Interview Summary indicates, various aspects of the invention were discussed, but no agreement was reached regarding with respect to the patentability of the claims.

Claims 32 and 48-53 are rejected under 35 USC 103(a) as being unpatentable over Sega's "Title Fight" in view of Japanese Reference 64-39789 ("789 reference") and further in view of Legg, U.S. Patent No. 5,415,549. This rejection is respectfully traversed.

Claim 32, as amended, recites "the image processing unit is configured to initially display a first display member, from among the plurality of display members, that is configured to be operated by a player, as nontransparent, ... [and] when the viewpoint is moved via the viewpoint changing unit such that the first display member is displayed in front of the second display member in a ready-to-fight state, the transparency processing unit is configured to make the first display member transparent." This feature is not taught or suggested by any of the references. Specifically, none of the cited references teaches a change in transparency of a display member based on a movement of viewpoint, as recited in claim 32.

In rejecting claim 1, the Examiner concedes that Title Fight does not teach this feature, but asserts that the '789 reference teaches displaying part of the display member transparent and other parts non-transparent. The Examiner then concedes that the '789 reference does not teach initially displaying a first display member as nontransparent, and then making the first display member transparent when the viewpoint is moved. However, the Examiner asserts that this change in transparency would have been obvious to one of ordinary skill in the art as a matter of design choice. Finally, the Examiner concedes that the asserted combination after applying the

latest modification still fails to teach moving the viewpoint, which is the event on which the change of transparency depends in the claimed invention. The Examiner asserts, however, that Logg teaches moving a viewpoint. Applicants respectfully disagree.

In combining these references, the Examiner improperly relies on the benefit of hindsight, treating the claimed invention as a template to put together teachings of the prior art while ignoring that the effective filing date of this application is May 10, 1995, more than thirteen years ago. While the Examiner provides no references showing a change in transparency of a display member, he asserts that such change in transparency would have been an obvious matter of design choice. The Examiner does not provide any evidence to show that changing transparency of objects, and in particular, changing transparency contingent on occurrence of an event such as a change in viewpoint, would have been within the knowledge of one of ordinary skill in the art back in May 1995. Further, the Examiner does not provide an affidavit of his personal knowledge of the state of the art at the time of the invention that supposedly supports his assertion. If the Examiner has personal knowledge that such feature was within the knowledge of one of ordinary skill in the art at the time of the invention, it is requested that an affidavit be submitted in accordance with 37 CFR 1.104(d).

Even assuming, *arguendo*, that the Examiner is correct in making this combination, the alleged combination still does not teach “the viewpoint changing unit is configured to subsequently move the viewpoint to a location where the first display member is situated in front of a second display member,” as recited in the amended claim 32. Specifically, Logg, which the Examiner relies upon for its alleged teachings of a change in viewpoint, merely teaches zooming in and out of a scene from a predetermined viewpoint. Logg, FIG. 10. There is no teaching or suggestion in Logg of moving the viewpoint in the manner recited in claim 32. Thus, Logg fails to overcome the deficiencies of Title Fight and the ‘789 reference in teaching this feature.

In addition, claim 32 has been amended to recite “when the transparency processing unit has made the first display member transparent, the image processing unit carries out an image

processing to display an image in which the first display member and the second display member fight each other.” Accordingly, the transparency of the first display member indicates to the player that the players are in a ready-to-fight state. None of the cited references teach this feature. Specifically, in none of the cited references, is the change in viewpoint along with the change in transparency of the first display member the indicator for the image processing unit to carry out the fighting process of the game.

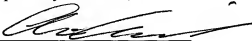
Accordingly, claim 32 is allowable. Claims 48-53 depend from claim 32 and are also allowable.

In view of the above, each of the claims in this application is in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event that the transmittal letter is separated from this document and the Patent and Trademark office determines that an extension and/or other relief is required, applicants petition for any required relief, including extensions of time, and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **380412000110**.

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Respectfully submitted,

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